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September 15, 2022

VIA ECF

Honorable Gary Brown
United States District Judge
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: *United States of America v. John Drago*, 18-CR-394-GRB-AYS-1

Dear Judge Brown:

We represent John Drago, who is scheduled to be sentenced by Your Honor on October 21, 2022. We respectfully request that the Court adjourn the sentencing to Friday, February 24, 2023, if that date is convenient to the Court, for the reasons stated below. We have consulted with the Government regarding this request; the Government opposes any further adjournment of sentencing.

The terms of Mr. Drago's plea agreement require him to make a forfeiture payment to the Government in the amount of \$253,191.00 30-days prior to the date of sentencing. In prior requests for an adjournment of the sentencing date, dated December 2, 2021, February 18, 2022, and June 1, 2022, we reported that Mr. Drago was trying to sell a family home and that he intended to use the sale proceeds to satisfy the forfeiture requirement contained in the plea agreement. The Government did not object to the prior requests. Following Mr. Drago's June 1, 2022 request, the Court agreed to adjourn sentencing until October 21, 2022.

Mr. Drago continues to have difficulties selling the property, largely stemming from buyer and broker concern about Mr. Drago's status in this matter. Despite the fact the Government has not filed a *lis pendens* or otherwise encumbered the property, buyers are concerned about whether they will be able to take clean title. In July 2022, a deal to sell the house fell apart for this reason and, on September 2, 2022, a real estate broker – Sotheby's – stopped working with Mr. Drago due to similar concerns.

Mr. Drago's efforts to sell the house continue in earnest. On September 3, 2022, the day after Sotheby's informed Mr. Drago that it would not work with him, Mr. Drago engaged Berkshire Hathaway to sell the house. Berkshire Hathaway listed the house for sale on September 12, 2022; at the time of this writing the listing had been viewed 372 times.¹

¹ <https://www.redfin.com/NY/SAINT-JAMES/10-MUFFINS-MDWS-11780/home/20991322> (last viewed at 1:50 p.m., September 15, 2022). A showing of the house was scheduled for today.

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Mr. Drago also has a current offer on the house, dating from June 2022, that will expire by the year's end. Mr. Drago did not accept the offer because the buyer sought a November 2022 closing date (*i.e.*, after the October 21, 2022 sentencing date) and the offer was made contingent on the buyer's ability to sell their current home.

We submit respectfully that Mr. Drago has been diligently trying to sell the property and raise the required funds to satisfy his forfeiture obligations. He also has complied completely with his bail conditions and cannot be said to represent a flight risk. Under the circumstances, we request respectfully that the Court adjourn sentencing to February 24, 2023. If additional facts are required regarding Mr. Drago's attempts to sell the property, Mr. Drago is available to provide them to the Court.

Thank you for your attention to this matter.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'Arthur D. Middlemiss', followed by a horizontal line.

Arthur D. Middlemiss

cc: AUSA Bradley King (via ECF)